

- (iv) by any non-compliance with the provisions of this Act or of any rules or orders made thereunder.

the court shall declare the election of the returned candidate to be void.

(2) If in the opinion of the court, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but the court is satisfied—

- (a) that no such corrupt practice was committed at the election by the candidate or his election agent and every such corrupt practice was committed contrary to the orders and without the consent of the candidate or his election agent ;
- (b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election ; and
- (c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents.

then the court may decide that the election of the returned candidate is not void.

41. Procedure to be followed by the court.—The procedure provided in the Code of Civil Procedure, 1908, in regard to suits shall be followed by the court as far as it can be made applicable, in the trial and disposal of an election petition under this Act.

42. Decision of the court.—(1) At the conclusion of the trial of an election petition, the court shall make an order,—

- (a) dismissing the election petition ; or
- (b) declaring the election of all or any of the returned candidates to be void ; or

- (c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidates to have been duly elected.

(2) If any person who has filed an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the court is of opinion—

- (a) that in fact the petitioner or such other candidate received a majority of the valid votes; or
- (b) that but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a majority of the valid votes,

the court shall, after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected

43. Procedure in case of an equality of votes.—If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then, the Court shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

44. Appeal.—An appeal shall lie to the High Court from an order of the Court of the District Judge under section 42 within a period of thirty days from the date of the order of the court excluding the time required for obtaining a copy of the order :

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

45. Corrupt practices.—The following shall be deemed to be corrupt practices for the purposes of this Act, namely :—

(1) 'bribery' as defined in clause (1) of section 123 of the Representation of the People Act, 1951 (Central Act 43 of 1951) for the time being in force ;

(2) 'undue influence' as defined in clause (2) of the said section for the time being in force ;

(3) the appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate :

(4) the promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizen of India on grounds of religion, race, caste community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate ;

(5) the publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election ;

(6) the hiring or procuring, whether on payment or otherwise of any vehicle by a candidate or his agent or by any other person with the consent of a candidate or his election agent for the conveyance of any voter (other than the candidate himself and the members of his family or his agent) to or from any polling station provided in accordance with the rules made under this Act :

Provided that the hiring of a vehicle by an elector or by several electors at their joint cost for the purpose of conveying him or them to and from any such polling station shall not be deemed to a corrupt practice under this clause if the vehicle so hired is a vehicle not propelled by mechanical power :

Provided further that the use of any public transport vehicle or any railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicle or otherwise ;

(7) the holding of any meeting in which intoxicating liquors are served ;

(8) the obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate’s election, from any person in the service of the Government or the service of the corporation ;

(9) any other practice which the Government may by rules specify to be a corrupt practice.

Explanation.—(a) In this section the expression “agent” includes election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

(b) For the purposes of clause (8), a person shall be deemed to assist in the furtherance of the prospects of a candidate’s election if he acts as an election agent, or a polling agent or a counting agent of that candidate.

4. Promoting enmity between classes in connection with election.—Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language feelings of enmity or hatred between different classes of the citizens of India shall, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

47. Prohibition of public meetings on the day preceding the election day and on the election day.—(1) No person shall convene, hold or attend any public meeting within any division within twenty-four hours before the date of commencement of the poll or on the date or dates on which a poll is taken for an election in that division.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

48. Disturbances at election meetings.—(1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called shall, on conviction be punished with fine which may extend to two hundred and fifty rupees.